

# **Scottish Information Commissioner**

**Report on the 2006-07 Audit**

**2 July 2007**

# Contents

<b>Section</b>	<b>Page</b>
Executive Summary	3
Financial Statements	5
Governance	7
Performance	8
Appendix A – Action Plan	10
Appendix B - Communication of audit matters to those charged with governance	12

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# Executive Summary

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## Introduction

We have audited the financial statements of the Scottish Information Commissioner (the Commissioner) for 2006-07 and examined aspects of the Commissioner's performance and governance arrangements. This report sets out our key findings.

## Financial Statements

We have given an unqualified opinion on both the financial statements of the Commissioner for 2006-07 and on the regularity of transactions undertaken during the financial year. During the year, the Commissioner incurred expenditure of £1.416 million against a budget of £1.420 million. Staff costs accounted for 58% of total expenditure with administration (37%) and depreciation costs (5%) accounting for the remainder.

The Commissioner's draft financial statements were presented for audit on 16 May 2007, significantly in advance of the prior year. The accounts and supporting working papers were of a high standard and, as a result, few adjustments were required to be processed following our audit. This represents a significant improvement in the year end and audit processes.

## Governance

We found that the Commissioner's governance arrangements operated well and within a generally sound control environment. The Commissioner complies with the good practice guidance in relation to governance, as outlined in the Scottish Public Finance Manual, in so far as it is relevant to the role of the Commissioner.

The Commissioner could make further progress in developing and embedding corporate governance arrangements in line with best practice in the following key areas:

- further clarification of the role of the Scottish Parliamentary Corporate Body in the budget approval and authorisation process;
- clarification of the Commissioner's personal liability status in respect of the activities of his office; and

We note that these issues will require engagement and agreement with the Scottish Parliamentary Corporate Body (SPCB).

## Performance

We carried out an overview of the Commissioner's arrangements in relation to the duty to deliver best value and efficiency in the operations of his office.

The Commissioner's office is a small organisation with limited resources and management capacity. In keeping with the size and scale of its operations, the Commissioner does not have a formal process in place for best value or for measuring and monitoring efficiency. However, the Commissioner keeps these matters under review and has implemented a range of operational and structural changes that have led to increased efficiency.

A particular success has been the effective management of the significantly increased workload of the Commissioner since the implementation of the Freedom of Information (Scotland) Act (the Act) in 2005. The volume of activity within the Commissioner's office provides an indication of the success of the Act since its introduction. However, we recommend that the Commissioner set out more explicitly how he intends to measure, monitor and report on the achievement of best value and efficiency in the management of his office going forward.

In 2005-06, Audit Scotland issued a report on behalf of the SPCB which reviewed the opportunities for the Commissioner to share services with the other ombudsman and commissioner bodies. Our review considered the Commissioner's response to the report, and what steps have been taken to address the recommendations raised. We found that:

- the Commissioner's office continues to work closely with the other Commissioners and Ombudsman bodies, and has considered a shared service approach in some areas;
- staff continue to meet regularly with their counterparts in the other Commissioner and Ombudsman bodies to discuss operational issues. This has led to the sharing of good practice across a range of administrative matters; and
- the Commissioner has strengthened risk management and governance arrangements.

## The Way Forward

Our findings and recommendations are summarised in an Action Plan (Appendix A) that accompanies this report. The Action Plan has been agreed with management and incorporates the management response to audit recommendations.

The report includes some specific recommendations to strengthen internal controls. It is the responsibility of the Commissioner to decide the extent of the internal control system appropriate for the management of his office.

## Acknowledgements

We would like to take this opportunity to thank the Commissioner and his staff who have been involved in this review for their assistance and co-operation.

This report is part of a continuing dialogue between the Commissioner and Grant Thornton and is not, therefore, intended to cover every matter which came to our attention. Our procedures are designed to support our audit opinion and they cannot be expected to identify all weaknesses or inefficiencies in the Commissioner's systems and work practices.

The report is not intended for use by third parties and we do not accept responsibility for any reliance that third parties may place on. The report will be submitted to the Auditor General for Scotland and will be published by him on his website at [www.audit-scotland.gov.uk](http://www.audit-scotland.gov.uk).

# Financial Statements

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## Our Responsibilities

We audit the financial statements and give an opinion on whether:

- they give a true and fair view, in accordance with the Public Finance and Accountability (Scotland) Act 2000 and directions made thereunder by the Scottish Ministers, on the state of affairs of the Commissioner as at 31 March 2007 and of its net expenditure, recognised gains and losses and cash flows for the year then ended;
- they, and the part of the Remuneration Report to be audited, have been properly prepared in accordance with the Government Financial Reporting Manual (FReM) and directions made thereunder by the Scottish Ministers; and
- in all material respects the expenditure and receipts shown in the financial statements were incurred or applied in accordance with any applicable enactments and guidance issued by the Scottish Ministers.

We also review the Statement on Internal Control by:

- considering compliance with Scottish Executive guidance;
- considering the adequacy of the process put in place by the Accountable Officer to obtain assurances on systems of internal control; and
- assessing whether disclosures in the Statement are consistent with the information emerging from our normal audit work.

## Overall Conclusion

We have given an unqualified opinion on the financial statements of the Commissioner for the 2006-07 financial statements. We are able to conclude that the financial statements of the Commissioner give a true and fair view of the financial position for the period from 1 April 2006 to 31 March 2007 and that, in all material respects, the expenditure and receipts shown in the accounts were incurred or applied in accordance with applicable enactments and relevant guidance.

## Standard of accounts and supporting papers

The Commissioner's draft financial statements were presented for audit on 16 May 2007, significantly in advance of the prior year. The accounts and supporting working papers were of a high standard and, as a result, few adjustments were required to be processed following our audit. This represents a significant improvement in year end audit processes.

Our audit recommended that the Commissioner include a contingent liability note to his accounts to reflect the uncertainty around the outcomes and costs of ongoing appeals in the Court of Session against the Commissioner's rulings. The Commissioner has defended these cases and may be liable to pay legal costs if the Court of Session upholds the appeals.

## Financial Performance

The Commissioner's Operating Cost Statement for the year records net expenditure for the financial year of £1,387,000. This total includes notional costs of £10,000 and depreciation charges of £73,000. The capital expenditure for the year was £29,000. Overall, the total expenditure of £1,416,000 was £4,000 under budget. Similarly, the funding from Scottish Parliamentary Corporate Body (SPCB) at £1,327,000 was within the budget of £1,337,000.

Staff costs account for 58% of total expenditure with administration (37%) and depreciation costs (5%) accounting for the remainder.

## Statement on Internal Control

The Statement on Internal Control sets out the arrangements established and operated for risk identification and management; proposed future development of arrangements, and review of effectiveness of the system of internal control.

We are satisfied that the Statement complies with Scottish Executive guidance, that the process put in place by the Accountable Officer (the Commissioner) to obtain assurances on systems of internal control is adequate and that the contents of the Statement are consistent with the information emerging from our normal audit work.

We noted that internal audit do not provide the Commissioner with an annual assurance statement.

***Action plan point 1***

## ISA 260: Communication of Audit Matters to Those Charged with Governance

Our responsibilities in relation to the communication of audit matters to those charged with governance are covered in the International Standard on Auditing 260 and outcomes against the requirements of the Standard are contained in Appendix B. In this context, our audit has not identified any unadjusted errors that we need to bring to the Commissioner's attention.

# Governance

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## Introduction

Corporate governance is the system by which organisations direct and control their functions and relate to their stakeholders, and incorporates the way in which an organisation manages its business, determines strategy and objectives and goes about achieving those objectives. It is concerned with structures and processes for decision-making, accountability, control and behaviour at the upper levels of the organisation. Three fundamental principles of corporate governance apply equally to all public sector bodies - openness, integrity and accountability.

As part of our 2006-07 audit, we assessed the adequacy of the Commissioner's governance arrangements against good practice standards for the public sector. We examined:

- the structures and processes for decision making;
- risk management and systems of internal control;
- arrangements for the prevention and detection of fraud and irregularities;
- standards of conduct, integrity and openness; and
- reporting arrangements and monitoring of the Commissioner's overall financial position.

## Key outcomes from our 2006-07 audit

We found that the Commissioner's governance arrangements operated well and within a generally sound control environment. The Commissioner complies with the good practice guidance in relation to governance as outlined in the Scottish Public Finance Manual in so far as it is relevant to the role of the Commissioner.

The Commissioner could make further progress in developing and embedding corporate governance arrangements in line with best practice in the following key areas:

- further clarification of the role of the Scottish Parliamentary Corporate Body in the budget approval and authorisation process;
- clarification of the Commissioner's personal liability status in respect of the activities of his office; and

We note that these issues will require engagement and agreement with the Scottish Parliamentary Corporate Body (SPCB).

### ***Action plan points 2-3***

The Commissioner had year end bank balances approaching £112,000 which, at 8% of funding, is significantly higher than good practice (1-2% of funding). A fund transfer of £54,393 was made on 4 April that reduced the Commissioner's cash balance significantly. We have recommended that the Commissioner review his cash flow management arrangements to ensure bank balances are maintained at a more reasonable level.

### ***Action plan point 4***

# Performance

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## Introduction

Public audit is more wide-ranging than in the private sector and covers the examination of, and reporting on, performance and value for money issues. As part of our annual audit we are required to plan reviews of aspects of the arrangements to manage performance, as they relate to economy, efficiency and effectiveness in the use of resources.

The Commissioner, as Accountable Officer for his office, has a duty to ensure public resources are used economically, efficiently and effectively. These arrangements were extended in April 2002 to include a duty to ensure 'best value' in the use of resources.

## Best value and efficient government

We carried out an overview of the Commissioner's arrangements in relation to the duty to deliver best value and efficiency in the operations of his office.

The Commissioner's office is a small organisation with limited resources and management capacity. In keeping with the size and scale of its operations, the Commissioner does not have a formal process in place for best value or for measuring and monitoring efficiency.

However, the Commissioner regularly keeps these matters under review and has recently implemented a range of operational and structural changes that have led to increased efficiency in the Commissioner's operations. During 2006 several performance improvements were achieved, including:

- an increase in the proportion of all applications which were closed at the validation stage: from 20% in 2005 to 42% in 2006, representing greater efficiency in case handling at this stage;
- informal resolution of 73 applications in 2006, compared to 29 applications in 2005; and
- 236 decision notices issued in 2006, compared to 90 in 2005.

The workload of the Commissioner is largely demand led and can be difficult to estimate. The resources available to the Commissioner were initially based on an estimate of the likely volume of applications in the range 125 to 300 in 2005. By the end of December 2005, 571 applications had been received, 90% more than the upper level anticipated for this first year of operation. Additional resources secured in 2006 ensured the volume of cases closed kept pace with the number of new applications being received (511 in 2006), and the number of cases on hand at the year end was reduced to 301.

The volume of activity within the Commissioner's office provides an indication of the success of the Act since its introduction. However, we recommend that the Commissioner should set out more explicitly how he intends to measure, monitor and report on the achievement of best value and efficiency in the management of his office going forward.

**Action Plan Point 5**



## Shared services

In 2005-06, Audit Scotland issued a report on behalf of the SPCB which reviewed the opportunities for the Commissioner to share services with the other ombudsman and commissioner bodies in Scotland. Our review considered the Commissioner's response to the report, and what steps have been taken to address the recommendations raised.

Audit Scotland recommended that the ombudsman and commissioners should:

- continue to explore opportunities for sharing services and co-location;
- where appropriate, exploit opportunities that may emerge from the Scottish Executive's Efficient Government Initiative;
- further develop the role of the operational group that already exists to share expertise, experience and best practice across the Ombudsman/Commissioners. One of the key objectives of this group should be to minimise the extent to which office holders need to get involved in routine operational delivery issues, thereby allowing them to focus on their core functions; and
- Use the proposed Remuneration Committee of the SPCB in an advisory capacity to support them in dealing with strategic staffing matters including pay and terms and conditions.

Our review found that the Commissioner's office continues to work closely with the other commissioners and ombudsman bodies, and has considered a shared service approach in some areas. The Commissioner and the Scottish Public Service Ombudsman, for example, are currently considering introducing a shared database platform.

In addition, staff from the Commissioner's office continue to meet regularly with their counterparts in the other Commissioner and Ombudsman bodies to discuss operational issues. This has led to the sharing of good practice across a range of administrative matters.

The Commissioner has also strengthened risk management and governance arrangements within his Office.

The SPCB has not yet formalised its Remuneration Committee arrangements and the Commissioner has not, therefore, been able to explore how best to utilise this Committee in the way envisaged by the Audit Scotland report.

***Action Plan Point 6***

**Grant Thornton LLP**

**June 2007**

## Appendix A – Action Plan

No	Finding	Risk	Recommendation	Management Response	Implementation date
<b>Statement of internal control</b>					
1	Internal audit do not provide a year end assurance statement to the Commissioner.	Low	The Commissioner should seek a year end assurance statement from its internal audit provider. This will assist the Commissioner in completing the Statement of Internal Control.	A year end assurance statement will be sought from the internal auditor.	March 2008
<b>Governance</b>					
2	There is a lack of clarification of the role of the Scottish Parliamentary Corporate Body in the budget approval and authorisation process.	Medium	The Commissioner should seek formal guidance on the role of the Scottish Parliamentary Corporate Body in the budgetary process.  This will clarify roles and responsibilities in the budget process.	The Commissioner will work with the SPCB in this regard; through the development of practice and by discussion the Commissioner will seek to formalise the relevant guidance	December 2007
3	The Commissioner had year end bank balances approaching £112,000 which, at 8% of funding, is significantly higher than good practice (1-2% of funding).	Medium	The Commissioner should review cash flow management to ensure bank balances are maintained at a reasonable level in line with the Financial Memorandum.	A fund transfer of £54,393 scheduled for 29 March 2007 was made on 4 April, reducing the Commissioner's cash balance significantly. The cash on hand at the year-end was fully committed; it had neither accumulated nor been drawn in advance of need. The procedures for monitoring and reporting bank balances have been reviewed and enhanced arrangements have been introduced.	May 2007
4	The Commissioner has not received clarification with regard to his own personal liability in respect of the activities of his	Medium	The Commissioner should continue to seek clarification from the Scottish Parliamentary Corporate Body on the extent of his personal	The Commissioner will take independent legal advice on this matter which will inform discussions	October 2007

Appendix A – Action Plan

No	Finding	Risk	Recommendation	Management Response	Implementation date
	office.		liability. This will enable the Commissioner to have in place adequate governance arrangements to take account of the risks of his role	with SPCB. Governance arrangements will be reviewed in light of the advice received and discussions with SPCB.	
<b>Performance</b>					
5	There is no formal approach to best value or efficient government.	Medium	The Commissioner should set out a more formal plan on how he intends to measure, monitor and report on the achievement of best value and efficiency in the management his office going forward.	An organisational review using Best Value principles is incorporated in the Commissioner's Operational Plan for 2007/08	December 2007
6	The SPCB has not yet formalised its Remuneration Committee arrangements and the Commissioner has not, therefore, been able to explore how best to utilise this Committee in the way envisaged by the Audit Scotland report.	Medium	The Commissioner should keep under review how the proposed Remuneration Committee of the SPCB could be used in an advisory capacity to support him in dealing with strategic staffing matters including pay and terms and conditions.	The Commissioner will seek clarification from the SPCB in this regard.	October 2007

## Appendix B - Communication of audit matters to those charged with governance

### ISA 260 – Communication of audit matters to those charged with governance

Under ISA 260, we are required to consider matters of governance interest that arise from the audit of the financial statements and communicate them with those charged with governance. The areas considered are as follows:

- a) Relationships that may bear on the Grant Thornton’s independence and the integrity and objectivity of the audit engagement lead and audit staff;
- b) The overall approach to the audit including any limitations thereon, or any additional requirements;
- c) The selection of, or changes in, significant accounting policies and practices that have, or could have a material effect on the entity’s financial statements;
- d) The potential effect on the financial statements of any material risks and exposures, such as pending litigation, that are required to be disclosed in the financial statements;
- e) Audit adjustments, whether recorded or not by the entity that have, or could have a material impact on the entity’s financial statements; and
- f) Those uncorrected misstatements aggregated by the auditor during the audit that were determined by management to be immaterial both individually and in aggregate to the financial statements as a whole.

### Key Findings

We summarise our key audit findings in relation to the above areas.

Ref	Area	Key Messages
A	Independence	<p>We are able to confirm our independence and objectivity as auditors and note the following:</p> <ul style="list-style-type: none"> <li>• we are independently appointed by Audit Scotland;</li> <li>• we comply with the Auditing Practices Board’s Ethical Standards; and</li> <li>• we have not performed any non Code of Audit Practice (the Code) or advisory work during the year.</li> </ul>

Ref	Area	Key Messages
B	Approach to the audit	<p>Our approach to the audit was set out in our 2006-07 audit plan. We have planned our audit in accordance with International Auditing Standards and the Code. Other key factors to highlight include:</p> <ul style="list-style-type: none"> <li>• we consider the materiality of items in the financial statements both in determining the approach to audit them and in determining the impact of any errors;</li> <li>• we have been able to place appropriate reliance on the key accounting systems operating at the Commissioner for final accounts audit purposes only; and</li> <li>• we have been able to place reliance on the work of internal audit in respect of the key accounting systems.</li> </ul>
C	Accounting policies and practices	<p>We consider that the Commissioner has adopted appropriate accounting policies in the areas covered by our testing. Accounting policies adopted were in accordance with the Government Financial Reporting Manual (FRM).</p> <p>The Commissioner has considered and confirmed that his Office remains a going concern. The Commissioner is asked to confirm this through the Letter of Representation.</p>
D	Material risks and exposures	<p>The Commissioner has considered and confirmed that it has no material risks and exposures which should be reflected in the financial statements. The Commissioner is asked to confirm this in the Letter of Representation</p>
E	Audit adjustments and unadjusted errors	<p>We identified several minor disclosure amendments and reclassifications to improve the presentation of the accounts. The Commissioner has agreed to adjust the accounts.</p>

### Accounting issue

The Commissioner's accounting policies require fixed assets to be accounted for a current cost. This requires that assets are indexed in intervening years between valuations. Indexation has not, however, been applied to fixed assets in the year under review and this will understate the valuation of assets in the balance sheet. We do not regard this omission as material.

There were no other unadjusted differences within the financial statements.